

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 384466-100001
First Named Inventor: Michael Sittinger
Prior Application Information:
Serial No. 09/718,801
Examiner: P. Philogene
Art Unit: 3732

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FILING UNDER 37 CFR § 1.53(b)

This is a request for filing for a

☐ continuation ☒ divisional ☐ continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial No. 09/718,801 filed on November 22, 2000, by

Michael Sittinger, Olaf Schultz, Gerd-Rudiger Burmeseter, entitled:

**IMPLANTABLE SUBSTRATES FOR THE HEALING AND PROTECTION
OF CONNECTIVE TISSUE, PREFERABLY CARTILAGE**

For CONTINUATION or DIVISION APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 4b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

CERTIFICATE OF MAILING (37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

EV 283743548 US
Express Mail Label No.

August 5, 2003
Date of Deposit
LAI-2048465v1

Michelle Kim

Name of Person Mailing Paper

Michelle Kim

Signature of Person Mailing Paper

I. APPLICATION ELEMENTS ENCLOSED

15 Page(s) of Written Description
7 Page(s) of Claims
1 Page(s) of Abstract
1 Sheet(s) of Drawings ☒ formal ☐ informal
2 Page(s) of ☒ Declaration or ☐ Declaration and Power of Attorney
☒ Copy filed on July 5, 2001 in prior application [37 CFR §1.63(d)]
Serial No. 09/718,801, filed 11/22/2000.
☐ Newly executed

Other:

- ☒ The prior application is assigned of record to TRANSTISSUE TECHNOLOGIES, GmbH. A copy of the Assignment to TRANSTISSUE TECHNOLOGIES, GmbH filed and recorded on July 5, 2001, in prior parent application Serial No. 09/718,801 is enclosed.
- ☐ An Information Disclosure Statement, PTO 1449, ☐ with copies of cited items.
- ☐ Request for Certification Under 35 U.S.C. 122(b)(2)(B)(i), Applicant must attached form PTO/SB/35.

II. AMENDMENTS

- ☒ Cancel in this application original Claims 1-26 of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
- ☒ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

III. FEE CALCULATION

- ☒ Applicant claims small entity status under 37 CFR 1.27.

BASIC FILING FEE:						\$750.00
Total Claims	8	-	20	=	0	x \$18.00 \$0.00
Independent Claims	1	-	3	=	0	x \$84.00 \$0.00
Multiple Dependent Claims	\$280	(if applicable)			<input type="checkbox"/>	\$0.00
TOTAL OF ABOVE CALCULATIONS						\$750.00
Reduction by ½ for Filing by Small Entity.					<input checked="" type="checkbox"/>	\$375.00
Misc. Filing Fees (Recordation of Assignment)						\$0.00
TOTAL FILING FEES DUE HERewith						\$375.00

IV. PRIORITY - 35 USC § 119

- ☒ Priority of application Serial No. 19957388.3 filed on November 24, 1999 in Germany is claimed under 35 USC § 119.
- ☒ The certified copy has been filed in prior U.S. Application Serial No. 09/718,801 on July 5, 2001.
- ☐ The certified copy will follow.

V. RELATE BACK - 35 USC § 120

- ☒ This application is a divisional application of application Serial No. 09/718,801, filed November 22, 2000, now pending.
- ☒ Appropriate relation back information is included in the preliminary amendment or specification.
- ☒ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are):
- ☒ the same.
- ☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 CFR §§1.33(b) AND 1.63(d)(2)]:
- [Name(s) of inventor(s) to be deleted]

VI. FEE PAYMENT BEING MADE AT THIS TIME

- ☐ Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]

☒ Attached.

☒ Filing fees. \$375.00

☐ Presentation of extra claims 37 CFR § 1.16(b).

☐ Recording assignment. [\$40.00 37 CFR § 1.21(h)(1)] —
Petition fee for filing by other than all the inventors or
person on behalf of the inventor where inventor
refused to sign or cannot be reached.
[\$130.00; 37 CFR §§ 1.47 and 1.17(h)]

☐ Petition fee to Suspend Prosecution for the Time —
Necessary to File an Amendment (New Application
Filed Concurrently.)
[\$130.00; 37 CFR §§ 1.103 and 1.17(i)]

☐ For processing an application with a specification in a —
non-English language.
[\$130.00; 37 CFR §§ 1.52(d) and 1.17(k)]

☐ Processing and retention fee. —
[\$130.00; 37 CFR §§ 1.53(f) and 1.21(l)]

Total Fees Enclosed \$375.00

VII. METHOD OF PAYMENT OF FEES

☐ Attached is a check in the amount of \$0.00.

☒ Charge Jones Day's Deposit Account No. **50-2468** in the amount of \$375.00.

VIII. AUTHORIZATION TO CHARGE ADDITIONAL FEES

The Commissioner is hereby authorized to credit Jones Day's Deposit Account No. **50-2468** for any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **50-2468**:

☒ 37 CFR § 1.16(a) (filing fees)

☐ 37 CFR § 1.16(b) (presentation of extra claims)

☐ 37 CFR § 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)

☐ 37 CFR § 1.17 (application processing fees)

☐ 37 CFR § 1.21 (Assignment recordation fees)

- ☐ 37 CFR § 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 CFR § 1.311(b))

IX. POWER OF ATTORNEY AND CORRESPONDENCE ADDRESS

- ☐ The power appears in the original papers in the prior application.
- ☒ The power does not appear in the original papers, but was mailed to the PTO on August 1, 2003 in prior application Serial No. 09/718,801 (copy enclosed).
- ☐ A new power of attorney is enclosed.
- ☐ A copy of an associate power executed and filed on _____ in prior application Serial No. _____, is attached.

Please send all correspondence to Customer Number 34026.

JONES DAY
555 W. Fifth Street, Suite 4600
Los Angeles, CA 90013-1025
(213)489-3939

Please send all correspondence to David A. Randall, at (213) 489-3939.

X. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION

- ☐ A petition, fee and response has been filed to extend the term in the pending **prior** application until _____. A copy of the petition for extension of time in the **prior** application is attached.
- ☐ A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

XI. ABANDONMENT OF PRIOR APPLICATION

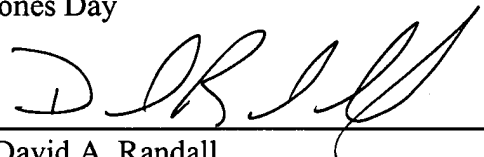
- ☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item IX above.

Respectfully submitted,

Jones Day

Dated: August 5, 2003

By:


David A. Randall
Reg. No. 37,217

Jones Day
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Los Angeles, CA 90013
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Facsimile: (213) 243-2539

Enclosures

TRANSTISSUE TECHNOLOGIES, GmbH
Name of Assignee

Tucholskystraße 2 - Charité, D-10117 Berlin, Federal Republic of GERMANY
Address of Assignee

Assignment recorded in PTO on July 5, 2001 at Reel 011947, Frame 0789